IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 33520 of 2007(M)

PETITIONER:

SHEEBA V.V.,
MLAAMALA ESTATE, THENGAKKAL P.O.,
VANDIPERIYAAR, IDUKKI DISTRICT.

BY ADV. SMT.SANGEETHA LAKSHMANA

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM.

3. THE CHAIRMAN,
KERALA PUBLIC SERVICE COMMISSION,
THIRUVANANTHAPURAM-4.

4. THE DISTRICT OFFICER,
KERALA PUBLIC SERVICE COMMISSION, KOTTAYAM.

5. THE INSPECTOR GENERAL OF POLICE,
ARMED BATTALIONS, POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J

W.P.(C).33520/2007

Dated this the 5th day of December, 2007

JUDGMENT

The petitioner was an aspirant for selection to the post of Women Police Constable (Armed Police Battalions) in the Police Department. Pursuant to Ext.P1 notification dated 12.8.1997, a written test was conducted in October, 1999, and the petitioner was successful. She was called for Physical Efficiency Test. But unfortunately, since she had conceived by the time, she was not able to participate in the Physical Efficiency Test. She submitted a representation along with the medical certificate seeking another opportunity on a future occasion to participate in the Physical Efficiency Test. Representations were continued to be sent in this regard to the police authorities also, including the Director General of Police. But selection was completed and apparently list was finalized. Later, the said list was cancelled and a second test was held. Petitioner was not aware of the cancellation of the list and therefore, unable to participate in the second test also. It seems that by the

time she became aware of this, selection process subsequent to the re-notification was finalized and candidates were appointed also. Petitioner, therefore, has approached this Court seeking comprehensive reliefs, essentially seeking a direction to include her name in the rank list published by the PSC for selection to the post of Women Police Constables (Armed Police Battalions), on condition that she succeeds in the Physical Efficiency Test and verification.

2. I heard the learned counsel for the petitioner and the learned Standing Counsel for the PSC.

3. May be the facts reveal the unfortunate situation that the petitioner was unable to participate in the Physical Efficiency Test due to factors beyond her control. It is upto the rule making authority to provide for contingencies such as one that the petitioner was visited with by making suitable provisions analogous to maternity leave, enabling women who are disabled at a

particular point of time being subject to Physical Efficiency Test at a subsequent point of time. But apart from that, it is also unfortunate that the petitioner was unaware of the cancellation of the first selection and by the time the petitioner became aware of it and she approached the authorities, the second selection was completed and list was published as well.

4. Learned counsel for the petitioner refers to Exts.P25 and P26 judgments. Under Ext.P25 judgment, this Court had taken note of the petitioner's disability when she had applied for the post of Agricultural Assistant Grade-II. Taking note of the same factual situation, as is mentioned above, this Court had directed the PSC to conduct an endurance test to the petitioner before finalizing rank list of Agricultural Assistant Grade-II. Learned Standing Counsel for the PSC brought to my notice the subsequent judgment of the Division Bench reviewing Ext.P26, wherein it was held that the directions contained in Ext.P26 was

taking into account the fact that the select list had not been finalized in that case, by the time the motion was made. It is made clear that the PSC will not be under an obligation to conduct fresh endurance test if motion in that regard comes after the finalization of the rank list. Taking note of the judgment of the Division Bench in R.P.535/2000, it will not be possible to hold PSC to be under an obligation to conduct Physical Efficiency Test for the petitioner in relation to the post of Women Police Constable.

5. Learned counsel for the petitioner makes reference to paragraph 5 of the writ petition which essentially seeks an amendment to Ext.P27 order issued by the Government. Such an amendment has to take note of the observations made by the Division Bench in Ext.P26 judgment. Suffice it to say, if any such ameliorative provision is made in favour of women who aspire for employment, in consonance with the observations made by the Division Bench in Ext.P26 judgment, it

would obviously a step in the right direction. It is open to the petitioner to bring such facts to the notice of the Government, in which event Government shall take appropriate steps to issue suitable orders in this regard, taking note of the contentions of the petitioner.

Subject to this observation, writ petition is disposed of.

V.GIRI,
Judge

mrcs